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S P E E C H

OF

HON. J. B. FORAKER,

OF OHIO,

IN THE

SENATE OF THE UNITED STATES,

Wednesday, May 19, 1897.

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WASHINGTON.

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SPEECH  
OF  
HON. J. B. FORAKER.

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The Senate having under consideration the following resolution:

*Resolved by the Senate and House of Representatives, etc., That a condition of public war exists between the Government of Spain and the Government proclaimed and for some time maintained by force of arms by the people of Cuba, and that the United States of America shall maintain a strict neutrality between the contending powers, according to each all the rights of belligerents in the ports and territories of the United States.*

Mr. FORAKER said:

Mr. PRESIDENT: The question before the Senate is on the motion to refer the resolution of the Senator from Alabama [Mr. MORGAN] to the Committee on Foreign Relations. I have already spoken, briefly, it is true, but, nevertheless, sufficiently to show my favor for that motion.

It has seemed to me that a resolution of this importance, a resolution of the far-reaching consequences of this resolution, ought to take the regular course, meet with thorough consideration at the hands of the Committee on Foreign Relations, and be in the regular way reported to the Senate before the Senate should take action upon it; this to the end that we may have on record as the predicate for our action the report of the committee embodying such facts as they might be able with propriety to present to this body.

Having entertained that view and having expressed that opinion, I did not expect to speak to the merit of the resolution of the Senator from Alabama until after a vote had been taken on the motion to refer to the committee; but, sir, this debate has taken such range and such things have been said in this debate that I now feel that it will be with propriety, at least, notwithstanding I am a member of the committee to which, according to this motion, this resolution should be referred, that I should speak as to the merit of the resolution itself.

And, coming to speak upon the merit of that resolution, I want to say at the outset that I propose to vote for that resolution or some other resolution of kindred character whenever we come to the point of taking a vote.

I want to say further, Mr. President, that, in order that I may support that resolution, it is not necessary, according to my judgment, that there should be any violation by this Senate of any principle of international law. On the contrary, in my judgment, we shall act strictly in accordance with the principles of international law in now taking the step which this resolution provides shall be taken. And I speak at this time upon the merit of this proposition because, in view of that which has been said here, it seems to me very appropriate and important that it should be pointed out that the resolution of the Senator from Alabama, if

adopted by this body, will not be adopted in violation of international law, but in recognition and in consistency with the principles of international law.

Mr. President, there are just four ways in which a foreign power, acting at all, can take notice of internal dissensions and disturbances in another country. They are: First, by a recognition of independence; in the second place, by a recognition of belligerency; in the third place, by a tender of friendly offices as a mediator, and, in the fourth place, by the drastic method suggested by the senior Senator from Massachusetts [Mr. HOAR] yesterday—intervention.

No one pretends, I believe—at least I have not heard that any one does—that we could with propriety consider a proposition to recognize independence in Cuba. There can be no recognition of independence until independence shall have been achieved. No one claims that the independence of Cuba has yet been achieved.

So far as mediation is concerned, that, too, may be considered beyond consideration in connection with the consideration of this proposition. We were told yesterday by the Senator from Massachusetts that he believed it to be the duty of this Administration to first propose mediation, and then, if mediation be not promptly accepted, to intervene and compel a cessation of hostilities and the establishment of peace.

The Senator doubtless spoke in ignorance of the fact, which I feel myself, notwithstanding some restrictions that have been adverted to, at liberty to state to the Senate that mediation has been tendered by this Government and has been rejected by Spain. As long ago as April 4, 1896, Secretary Olney addressed to the Spanish Government, through the Spanish minister resident in this city, a communication, a copy of which I hold in my hand, of very considerable length and very great ability, in which he recounted the then existing conditions in Cuba, pointed out the necessity for a cessation of such practices as were then being resorted to in the prosecution of that war, and also pointed out the interests of the United States as prejudicially affected by that war, and, as the result of it all, upon that as a basis for it, tendered to the Spanish Government the friendly offices of the United States Government to secure peace in the Island of Cuba consistent with the dignity and the honor and the continued sovereignty of Spain in that island.

I hold in my hand, also, part of the answer which some two months later was made by the Spanish Government to that communication. I read from it just one sentence. It is under date of June 4, 1896. The answer is equally as long as the communication of Mr. Olney. In it a great many things were said which I do not feel I should be justified in commenting upon here in public. At the conclusion of the argument he made in behalf of the position Spain took in rejecting that friendly mediation, the Spanish minister uses this sentence:

In brief, there is no effectual way to pacify Cuba, unless it begins with the actual submission of the armed rebels to the mother country.

That, Mr. President, was the end, so far as I have been able to discover, of the efforts on the part of our Government as a friendly mediator. Those efforts came to naught. They came to naught because of the rejection on the part of the Spanish Government of this friendly tender.



Reference was made yesterday to the Republican platform in regard to Cuba——

Mr. HOAR. Before the Senator leaves that point, will he allow me to ask him a question?

Mr. FORAKER. Certainly; with pleasure.

Mr. HOAR. I desire to ask the Senator from Ohio whether the tender of mediation was a tender of the good offices of this Government to secure the independence of Cuba, or whether it was limited to a tender of the good offices of our Government to secure pacification there by the adoption by Spain of certain legislative or other reforms?

Mr. FORAKER. I have not been honored with the attention of the Senator from Massachusetts that I complimented myself I was being honored with.

Mr. HOAR. Yes; the Senator has.

Mr. FORAKER. I stated distinctly that the tender by this Government to the Spanish Government was to use the good offices of this Government to secure peace to the Island of Cuba on terms consistent with the dignity, the honor, and the continued sovereignty in Cuba of the Spanish Government.

Mr. HOAR. If the Senator will pardon me, I understood it exactly so; and I wish to call the attention of the Senator—because the Senator perhaps has not honored me with the attention which I should have deemed a very great compliment if I had received it——

Mr. FORAKER. I did not know that I was bound to be watching the Senator while I was addressing the Senate.

Mr. HOAR. The Senator quoted what I said yesterday.

Mr. FORAKER. Yes.

Mr. HOAR. What I said yesterday was that I was in favor of an offer of mediation of this Government to secure the independence of Cuba. The Senator then, undertaking to take up what I said yesterday and referring to it, objects to that proceeding by quoting an offer to mediate on the terms made four or five months ago or a year ago, an offer to mediate on the terms of the continued authority of Spain; and I asked him to restate the offer in that letter, in order that he might see the distinction between my proposition and the offer of our Government through Mr. Olney. When I said that the honorable Senator had not exactly listened to me, I referred to the remark which he was quoting, and not to what is going on now.

Mr. FORAKER. The Senator from Massachusetts is laboring under a misapprehension when he supposes I did not understand him. I was speaking as to the four ways in which we might take notice of the fact that there was a disturbance, not to use the term war, in Cuba at this time. I had spoken of the fact that independence was not to be considered, for the reasons I gave. I was just now speaking of the fact that mediation was not to be considered properly, because that effort had been made and had been rejected.

I have appealed to the record to sustain me in that respect. What is it the record shows—the letter of Mr. Olney and the answer thereto? It shows that what this Government offered to do was to intervene as a friendly mediator, to secure a peace consistent with the honor, the dignity, and the continued sovereignty of Spain in Cuba. Does the Senator from Massachusetts suppose that the Spanish Government, having rejected that proposition,

would entertain one now based upon the proposition that we should become a friendly mediator to secure peace on condition that the Island of Cuba should be given independence?

Mr. HOAR. I do.

Mr. FORAKER. You do? You think Spain would entertain more favorably a proposition that she should abdicate than that she should continue sovereign? I submit to Senators that I need not dwell upon the idea I am seeking to advance, that the greater includes the less, and that, if Spain would not entertain a proposition continuing her sovereignty, we could not expect her to entertain a proposition based on a condition precedent of abdication of authority.

Mr. HOAR. If the Senator will pardon me one moment, I shall not interrupt him again—

Mr. FORAKER. I shall be delighted to have the Senator interrupt me at his pleasure.

Mr. HOAR. I shall say what I wish to say on the general subject after the Senator gets through.

It seems to me, whether reasonably or unreasonably, that Spain now, a year and three months or four months later, might entertain a proposition for intervention to secure independence, or, if she did not, we should have some reason to know where we stood, notwithstanding the fact that she declined to permit the mediation of a foreign country to determine what laws she should make for her subjects.

Now, I conceive it would be a much greater loss of dignity on the part of the United States, if one of our States were in revolution, to permit a foreign government to dictate or suggest what laws we should pass while she continued ours than it would be to suggest the impossibility of our longer maintaining our control at all. So, not only are the two propositions separated from each other by a year and three months of time crowded with important events, but they seem to me, with great deference to my honorable and distinguished friend, to be different from each other in point of acceptability to Spain. However, I will say what I have to say about that later.

Mr. FORAKER. I quite agree with the Senator from Massachusetts that what Spain refused to do a year or more ago she might be willing to do to-day; but is it reasonable—for we are to consider what is reasonable here—taking into consideration her past history with respect to this matter, to expect that a change of mind has overcome her? We must all remember in this connection that when the ten years' war was in progress there the friendly offices of this Government were tendered to the end that peace might be secured, and they were then rejected, but with the reservation that Spain appreciated the friendship manifested toward her by the United States, and would, if circumstances should change later in the progress of that war, avail herself of our friendly offices; but the whole ten years of that fearful struggle passed, and nothing more was heard from Spain.

Now, in view of that fact, and in view of the manner in which these friendly offices were rejected, I for one deem it entirely unreasonable to suppose that Spain would entertain with any more favor now than she did one year ago a tender of the friendly offices of this Government; and I remain yet to be convinced that it would add to the agreeableness, in the estimation of Spain, of



this tender if it should be based on the condition of abdication instead of a continuation of sovereignty.

Therefore, to resume the argument I was making, I, for the purposes of the discussion in which I intend to engage this afternoon, consider as beyond our right of consideration here two of the recognized methods of intervention, or taking notice of that which transpires in another country of a warlike character—independence and mediation are to be set aside. There remains but the two other ways I have specified. We can take notice of that condition of things by the recognition of belligerency, according to the belligerents' belligerent rights, or we can intervene. It is my judgment, Mr. President, that intervention is the better, the shorter, the more Christian-like way to settle the difficulty in Cuba.

I think the time has come when the United States Government would be justified in saying to Spain that the proceedings which have been there going on so long should, in the name of civilization, in the name of humanity, as well as because of their destructive influences upon our interests, come to a stop, and come to a stop immediately. That is what I think. [Manifestations of applause in the galleries.]

But, Mr. President, the author of this resolution has not seen fit to go so far. He has simply proposed by this resolution that we shall recognize the belligerent rights of the contending Cubans. That does not necessarily involve war. The insurgents in Cuba have no right to demand of us that we give them this recognition, and, on the other side, Spain has no right to complain of our action if we see fit to give it to them. It is an action, Mr. President, which is to be taken at our option, having regard to our own interests, whenever circumstances are such as to justify us in doing so; and when I say whenever circumstances are such as to justify us in doing so, I mean justify us under international law—the international law applicable to such a case.

What are the conditions, Mr. President, that will justify us in adopting the joint resolution recognizing the belligerent rights of the Cubans? According to all international text writers two conditions precedent must coexist. There must be in the first place war in the international sense, and in the second place we must have rights or interests prejudicially affected by that war, and if there be war and if our rights and interests be prejudicially affected, then the only remaining question is one of expediency. Is it expedient to do it? Is it to our interest to do it?

I propose, in the first place, to show that there is war in Cuba within the meaning of international law applicable to such a case. I had not supposed until I heard the discussions in this Chamber that it was necessary to read out of law books on that proposition, but inasmuch as that seems to be a necessity, I desire to call attention to what is said on this subject by one of the ablest of the writers on international law. I read from Professor Pomeroy's book on International Law at section 230, page 287. After reviewing other text writers who had written on that subject previously, and after distinguishing their various views, he then, as a summing up of the whole argument and as a statement of the condition necessary to constitute war in its international sense, says:

This, then, is the sole criterion. The measures which the parent state uses to repress the rebellion must be something more than the ordinary civil means of arrest and punishment; more than the aid of the civil officers by

the posse comitatus; more, even, than the aid of the civil power by the military. The civil means must be for a while suspended, and all coercive efforts must be made by the military arm.

On the other hand, the resistance of the insurgents must be something more than the energies of a tumultuous mob or of unorganized multitudes. The very idea of the resistance amounting to war does demand that the insurgents should occupy some territory which they claim as their own, and over which they exercise some jurisdiction; that these insurgents should be organized into some form of political society, acknowledging some government that exercises over them supreme authority. But it can not be necessary that this government should be anything more than provisional. Finally, the resistance itself must be military in its character.

I might read further to the same point, but without shedding any additional light. The truth of the matter is, therefore, according to this authority—and I submit, without fear of successful challenge, that it is a standard authority, recognized all over the world—it is sufficient to constitute war in the international sense in which we are now using that term when it is required, in order to enforce civil authority, that the military powers shall be invoked in the sense in which the author here describes. Is not that true in Cuba?

Much solicitude has been manifested as to the character of the civil government of the insurgents in Cuba. Has anybody described the civil government of the Spaniard in Cuba? The Spaniard has no civil government in Cuba. He has throughout the island, wheresoever he asserts authority at all, only martial law and military force. There is no pretense of any other kind of government. On the contrary, although it has been said that this is but a paper government, the fact is found and reported to the Senate by the Committee on Foreign Relations, and established also by communications of an official character on file in the State Department, that the insurgent Cubans have a thoroughly organized Government, in the sense that they have a written constitution, a president and other officers of state; they have a cabinet; they have all the machinery necessary, if it were only left to itself, to administer the civil affairs of the people and to entitle them to take a place among the nations of the earth.

That is the character of the situation in that respect. What is it in others? We are told we must not rely upon newspaper reports. I am happy in the fact that I do not have to rely on newspaper reports. I have in my hand again the official communication from the then Secretary of State, Mr. Olney, dated April 4, 1896, in which, under all the solemnities of his official position, in the discharge of the high duty upon which he had entered, he describes the existing conditions in Cuba as they had been theretofore made known to him by official communications on file in the Department of which he was the head.

When a newspaper article is referred to, and a Senator says, "I do not choose to believe it," that is his privilege; it is unofficial; it is unauthorized. You may believe it; I may disbelieve it. We may have different opinions about its credibility. But, Mr. President, when the duly authorized agents of this Government in their official communications state facts to us, we are all alike bound to believe them.

Secretary Olney believed that there existed in Cuba the conditions which he described. I shall read only briefly and shall ask permission that this paper, inasmuch as it has never been printed, may be published in the RECORD in connection with my remarks.



The PRESIDING OFFICER. Without objection, that order will be made.

Mr. FORAKER. Secretary Olney says to the Spanish minister:

It is now some nine or ten months since the nature and prospects of the insurrection were first discussed between us. In explanation of its rapid and, up to that time, quite unopposed growth and progress you called attention to the rainy season, which from May or June until November renders regular military operations impracticable. Spain was pouring such numbers of troops into Cuba that your theory and opinion that when they could be used in an active campaign, the insurrection would be almost instantly suppressed seemed reasonable and probable. In this particular you believed, and sincerely believed, that the present insurrection would offer a most marked contrast to that which began in 1868 and which, being feebly encountered with comparatively small forces, prolonged its life for upward of ten years.

It is impossible to deny that the expectations thus entertained by you in the summer and fall of 1895, and shared not merely by all Spaniards but by most disinterested observers as well, have been completely disappointed. The insurgents seem to-day to command a larger part of the island than ever before. Their men under arms, estimated a year ago at from ten to twenty thousand, are now conceded to be at least two or three times as many. Meanwhile, their discipline has been improved and their supply of modern weapons and equipment has been greatly enlarged, while the mere fact that they have held out to this time has given them confidence in their own eyes and prestige with the world at large. In short, it can hardly be questioned that the insurrection, instead of being quelled, is to-day more formidable than ever and enters upon the second year of its existence with decidedly improved prospects of successful results. Whether a condition of things entitling the insurgents to recognition as belligerents has yet been brought about may, for the purposes of the present communication, be regarded as immaterial.

Then he passes on to say that it is the desire of this Government, as I have stated, only to interpose as a friendly mediator; but he does not say, on the contrary, by implication—he plainly says the opposite—that a condition of war does not exist, one that would justify this Government in the recognition of belligerent rights. Now, that was the warlike condition of the island one year ago, when the Secretary of State spoke on the subject, and spoke from official information.

I now have in my hand all that I am allowed to have under the limitations and restrictions which have been imposed upon us with respect to the information that has been given the Committee on Foreign Relations, but it is sufficient to show that all the then Secretary of State said is true, only in a stronger degree at this time. There is no official communication on file in any Department of this Government which is not in harmony with the few lines I shall read; there is no communication which is not confirmatory of all I shall read, and there is so much on file that, as it has been stated in this Chamber to-day, the State Department will be several weeks engaged in the labor of copying and preparing for the Senate the correspondence called for by the resolution which has been adopted. But I say it is all comprised in the little I shall read.

This is of recent date, being only a few days old. It has reference to a proclamation issued by General Weyler, in which he claimed that the entire island, except only the province of Santiago de Cuba, had been pacified; and I call attention now, as I should have done a moment ago, to the fact that it is admitted by Spanish authority that the insurgents have control of the largest of the six provinces of the island, and therefore they have the footing necessary, according to some international law-text writers, to a recognition of belligerent rights.

They are not only in possession of the larger part of that province, but let me say further, while it is in my mind, that the official information of this Government sustains that which has been said unofficially, that the government, which it is claimed exists only on paper, has a postal system in operation with a high degree of success under the trying circumstances attending the operation of such a system. It has a fiscal system more satisfactory, measured by the results in money in the treasury, than was the fiscal system of the thirteen colonies during the war of the Revolution.

I now wish to read what I referred to a moment ago:

I can not understand the truth of the claim that all the provinces of the island are in the main pacified, except that of Santiago de Cuba, because there are more insurgents under arms at this time than—

I will leave out a word or two here to avoid identification—  
“than there were” will give the sense of it—

ten months ago.

That would carry you back to the time when Secretary Olney wrote:

I do not think it is a fair inference to draw from existing conditions that the war is approaching a termination.

This writer does not hesitate to say there is war, and to use the term—

because in pursuance of an established policy the insurgents avoid as far as possible all serious engagements. The impossibility of expelling the Spanish troops from this island by force of arms is well known to them, and they do not propose to risk the lives of their men and the success of their cause upon one or more pitched battles. I conclude, therefore, that the war will drag its weary length along so long as the insurgents can dig sustenance from the ground on the one side, or money be obtained by the other, with the continued result of untold human suffering, loss of human life, the murder of innocent men, women, and children.

There is more that I might read to the same effect.

The Senator from Minnesota [Mr. DAVIS] calls my attention quite properly to the fact that in a communication other than the one from which I read, but a communication with which the Senator is familiar, the organization and the number of troops of each and every province is given in a detailed way, and in such a way as to show beyond all controvertibility that there is not only in Cuba perhaps more than 40,000 men under arms, but that they are distributed over the island throughout all the provinces, each having its own army, and that the army of 40,000 men, now an army of veterans, is armed chiefly with repeating rifles; that it is organized not only into companies but also into regiments, brigades, divisions, and corps, thoroughly officered and thoroughly disciplined.

Not only that, but they tell us further that the troops and the insurgents throughout the island are to-day not only stronger but that they are more encouraged, more hopeful, more determined on ultimate and triumphant success than ever before in the history of the insurrection.

Mr. WHITE. Will the Senator from Ohio yield for a question?

Mr. FORAKER. Certainly.

Mr. WHITE. The Senator from Ohio is a member of the Committee on Foreign Relations. I desire to ask him whether it is contemplated to give to the Senate the information to which he



alludes, and which he now says he is prevented from disclosing because of an injunction of secrecy imposed, presumably, by the State Department.

Mr. FORAKER. If I had my way about it, I would give it to the world before to-morrow morning. [Applause in the galleries.]

The PRESIDING OFFICER rapped with his gavel.

Mr. FORAKER. But what will be done about it further I do not know. I know simply that we are possessed of certain information, controlled by certain limitations and restrictions, and beyond that I can not state, except as I have already stated in the progress of this argument, that I have been informed by the State Department that they are now engaged in the work necessary to enable the State Department to comply with the resolution of the Senate requesting all the correspondence on the subject.

Mr. WHITE. I merely wish to call attention to what I consider to be the right of the Senate to any information possessed by its Committee on Foreign Relations. Of course, as to whether it is to be disclosed in executive session or publicly is an entirely different matter. I think we ought to have the information, so that we may judge for ourselves, as the Senator is able to judge for himself, with respect to the facts.

Mr. FORAKER. I think so too, and I will not for a minute stand in the way of the Senate having it in executive session or otherwise when the proper time comes. But I am not the judge, and I have not any disposition to criticise anybody who is a judge, of what should be done or what is to be done in that respect. I can only give the Senator the benefit of what information I have.

So, therefore, without pursuing the matter further, I think we are safe in concluding that there is war in Cuba. As was said by the senior Senator from Kentucky [Mr. LINDSAY], when speaking a few minutes ago, the Spanish Government has sent into that island for the suppression of the insurrection, as they call it, nearly 200,000 drilled and disciplined veterans of the Spanish army, a greater military force than the combined armies of Grant and Lee in the battles of the Wilderness, and yet we are told that it is a debatable question whether or not there is war in Cuba.

I am not speaking about the effect upon this question of the action already taken by the Executive. Surely it is not a condition of peace that prevails in an island only 90 miles distant from our shores when its condition is such that six to eight hundred American citizens, in company with thousands of the natives of the island, are impounded like so many cattle, there to be literally and purposely starved to death.

Mr. ELKINS. Let me ask the Senator from Ohio where is the proof of the fact that they are impounded?

Mr. FORAKER. The proof of that fact is on file in the State Department, and it was upon that information that the President acted when he sent the message.

Mr. ELKINS. We do not know it officially in the Senate.

Mr. FORAKER. I tell it to the Senator officially.

Mr. ELKINS. We do not take it from you officially. We do not take facts from another Senator. Each Senator has his rights here—

Mr. FORAKER. Certainly.

Mr. ELKINS. Equal as to every other Senator.

Mr. FORAKER. It is in the message.

Mr. ELKINS. What message? It does not say they are impounded, to be starved to death. The President of the United States said nothing of the kind. The Senator from Ohio said that.

Mr. FORAKER. I will say it to the Senator, and he can go to the State Department and ascertain it, as I have done, or he can wait until the State Department sends it here. If he has any compunction about receiving it at my hands, he is not bound to, I suppose. But I state it as a Senator who obtained his information in the performance of a duty.

Mr. ELKINS. Let me ask one other question. Will the Senator pardon me?

Mr. FORAKER. Certainly.

Mr. ELKINS. Does each one of us have to walk up Pennsylvania avenue to the State Department, be admitted there, with the blinds pulled down, while the Secretary of State tells us to hush, and have to come back to the Senate and get up and proclaim that we have these facts? Is that the way we get facts from the State Department or from the Executive?

Mr. FORAKER. I have not been a member of the Senate long enough to give the Senator from West Virginia the information.

Mr. ELKINS. Why do you not report those facts as all other resolutions or bills are reported upon from the Foreign Relations Committee? You belong to the committee. You have facts that I do not have.

Mr. FORAKER. Yes.

Mr. ELKINS. What! Are you afraid to assemble those facts and put them before us? This is a great transaction. The world is looking on. We are asked to vote without a fact in the world being submitted. We are asked to vote upon what Senators on the Foreign Relations Committee learn by going to the State Department. Hid away in a room, they get the facts, and, slipping out, they come to the Senate and dole out this information, and then say "filibuster" if we do not vote right off, blindly and without the facts.

Mr. FORAKER. The Senator should not use the term "filibuster" with respect to myself.

Mr. ELKINS. I have heard that word used.

Mr. FORAKER. I am on the side that is asking the reference of the joint resolution to the committee. The Senator from West Virginia certainly could not have been in the Chamber listening during the whole of my remarks. What I said at the outset was that I had not purposed to speak on this question until a vote had been taken upon the motion to refer, and if the resolution shall be referred, as I have hoped it might be, it is my purpose then to speak in support of the report we may make. I said I desired a reference in order that the matter might take the usual course and in order that we might present to the Senate the facts which I am giving now, not by way of report from the committee, but as a Senator in the discharge of my duty. Of course the Senator is not bound to accept any statement I may make, but he should not become irritated about it when he has the delicious privilege of rejecting it. [Laughter.]

Resuming my argument, I assume that the first of the two conditions precedent to the recognition of belligerency, namely, the existence of war, does exist.



Now, the next question is whether or not the rights and the interests of the United States are so prejudicially affected thereby as to justify us in taking any notice of it. All text writers are agreed that if there be rebellion in a country with which we have no transactions, or a rebellion that does not in any way whatsoever affect us, there would be no justification in our taking any note of it; but, on the other hand, all text writers are in accord that when we do have rights and interests that are prejudicially affected, it is not only our right, Mr. President, but our duty to act, and to act seasonably, in the language of the text writers. The question is whether or not our interests and rights are affected.

Let me again recur to an authority which those who are opposing the resolution of the Senator from Alabama should not dispute. I read again from Secretary Olney. I read from him now as to the interests of the United States which are affected by the war. He says:

The situation thus described is of great interest to the people of the United States. They are interested in any struggle anywhere for freer political institutions, but necessarily, and in special measure, in a struggle that is raging almost in sight of our shores. They are interested, as a civilized and Christian nation, in the speedy termination of a civil strife characterized by exceptional bitterness and exceptional excesses on the part of both combatants. They are interested in the noninterruption of extensive trade relations which have been and should continue to be of great advantage to both countries.

They are interested in the prevention of that wholesale destruction of property on the island which, making no discrimination between enemies and neutrals, is utterly destroying American investments that should be of immense value, and is utterly impoverishing great numbers of American citizens. On all these grounds and in all these ways the interest of the United States in the existing situation in Cuba yields in extent only to that of Spain herself, and has led many good and honest persons to insist that intervention to terminate the conflict is the immediate and imperative duty of the United States.

And then he goes on to say that he does not now propose to discuss the question of intervention, but only the question whether they will permit the United States to act as a friendly mediator.

But, Mr. President, not to detain the Senate unduly, if I have talked to any purpose thus far, I have shown that war exists by authority that no Senator has a right to question, because it is official; and I have shown, also, that interests and rights of the very highest character, property rights, commerce rights, the right to life and liberty, all are prejudicially affected by the war that is proceeding in Cuba. If these things be established, then there remains, as I said awhile ago, but one further general question, and that is whether it is expedient for us to adopt the pending resolution.

When we come to the question of expediency, it is, according to the text writers, more a question of politics than of international law, but it is one of those political questions that international law deals with. Being a question of expediency, it is right and proper that we should answer (for in that lies the whole controversy) the question propounded by the senior Senator from Massachusetts [Mr. HOAR] when, yesterday at the conclusion of the address of the Senator from Illinois [Mr. MASON], he made an inquiry as to what would be the result. I can not give his language exactly, but he is watching me so intently that I believe I will read it. I said he put it as an inquiry. He did

not. He put it as a statement of his opinion as to the result. He said:

The only effect of that resolution—

Referring to the joint resolution of the Senator from Alabama—

which is to be interpreted, and must be, and is meant to be, by “that ancient barnacle, international law”—

It is fair to the Senator from Massachusetts that I should say that is a quotation [laughter]—

is that it declares that while the present condition of things continues Spain may search our ships at sea at her discretion, and that our citizens on that island who suffer from lawlessness there shall have in the future no remedy or recompense against Spain whatever; and that is the whole of it.

In other words, Mr. President, we are told that the legal results and consequences that will flow from the adoption of the resolution will be, first, a right of search conferred upon the Spaniard with respect to our merchantmen on the high seas, and, secondly, a release of Spain from liability to make reparation.

Mr. HOAR. From the acts of the insurgents.

Mr. FORAKER. Now, let me speak briefly upon that point. It is true that these are two of the consequences that would result, but not in the unlimited extent stated by the Senator. It is true that from the moment the joint resolution is adopted and signed by the President, and thus given effect—from the moment there is recognition of belligerency, in other words—we do release Spain from liability to make reparation to us for losses incurred by American citizens in that island because of the acts of the insurgents.

That is true. But, Mr. President, I do not regard that as a serious loss. I have been to the State Department upon that subject as well as others. I find in the State Department, as any Senator can find, that claims are piled up there amounting to many millions, preferred by this Government against the Spanish Government in behalf of American citizens in Cuba whose property in Cuba has been destroyed by the insurgents. I find, furthermore, that in each and every instance of the presentation to the Spanish Government of such a claim there has been a long, prolonged diplomatic correspondence, winding up in the end, without an exception, in every case, with a flat final repudiation by Spain of the claim and a refusal to pay it.

To begin with, therefore, Spain does not recognize any such claims. In the second place, it is a fact notorious to all that if she did recognize them she is not able to pay them. I do not think there is much loss in releasing Spain from liability to make reparation to American citizens. On the contrary, Mr. President, I say it in all seriousness, I would rather have the obligation of the insurgents of the Republic of Cuba than the obligation of Spain. [Applause in the galleries.]

The PRESIDING OFFICER. The Chair again reminds the occupants of the galleries that a violation of the customs of the Senate in making manifestations of either dissent or assent will be followed by the clearing of the galleries. Those who occupy the galleries will please bear this in mind.

Mr. FORAKER. Now, as to the other disagreeable result that would flow from this action. We are told, as though it was some



terrible thing, that a recognition of belligerency would instantly confer upon Spain a right of visit and search of American merchantmen upon the high seas. That is true. But what is this right of search? Is it, as the Senator from Massachusetts yesterday said, a right that is to be exercised without limitation; that, to give his own language accurately, "Spain may search our ships at sea at her discretion?"

No, Mr. President: according to international law no such right as that is conferred upon Spain. The right that is conferred upon Spain is the right to hail, to stop, to board, with one officer in the first instance, any merchantman of our country traveling on the high seas, respectfully to request an examination of the ship's papers, and make such other examination, the character of which is well described in all international law, as may be deemed necessary to determine whether there are on board that ship any contraband goods of war. What are contraband goods of war?

In the absence of any specific naming of contraband goods, such as is customary in treaties between countries, there is much discussion in the authorities as to what are contraband goods of war. But in the treaty between this country and Spain we are told what are contraband goods of war. I read from the treaty between Spain and this country of 1795, Article XVI:

This liberty of navigation and commerce—

Which in preceding sections has been described—

This liberty of navigation and commerce shall extend to all kinds of merchandizes, excepting those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods, shall be comprehended arms, great guns, bombs, with the fuses, and other things belonging to them, cannon-ball, gunpowder, match, pikes, swords, lances, spears, halberds, mortars, petards, grenades, salpêtre, muskets, musket-balls, bucklers, helmets, breast-plates, coats of mail, and the like kind of arms proper for arming soldiers, musket rests, belts, horses with their furniture, and all other warlike instruments whatever.

In other words, Mr. President, there could be no question here as to whether clothing on board the ship was contraband goods of war, as has so frequently been discussed as to character of an article of that kind when found by the exercise of the right of search. Nothing is contraband of war except only arms and munitions of war, to state it concisely.

Now, it is true that just so soon as we recognize the belligerency of the insurgents, if we do, Spain will have the right to hail and detain our ships until she may have examined the ship's papers to determine whether there are any contraband goods on board destined to the belligerents. I quote upon this subject from Lawrence, upon *The Principles of International Law*, a book very recently issued, but one that is very ably written. Having spoken of the right, and stating that it is the duty of the ship desiring to exercise the right of search to hail the merchantman, the author proceeds:

Assuming that the summons of the belligerent cruiser is obeyed, the next step taken by her commander is to send an officer in uniform on board the vessel to be searched. The visiting officer should question the master of the vessel and examine her papers. If any circumstances of suspicion are revealed by his examination, but not otherwise, he is at liberty to call his boat's crew on board and order them to make a thorough search of the vessel. Should the search confirm the suspicions, the commander of the cruiser may take possession of the ship, secure her papers, and hold her master and crew as prisoners. But throughout his proceedings he is bound to use courtesy

and consideration, and to carry on the search with as little disturbance as possible of the interior economy or navigation of the suspected vessel.

The regular course is to send her to the most accessible prize court of his own state for adjudication. If the grounds on which the capture was effected turn out to be good, condemnation will ensue, and the captors will receive the proceeds of the sale of the captured property in the form of prize money. If the evidence against the vessel is not conclusive in spite of circumstances of just and reasonable suspicion, she will be released, but her owners will have to bear the expense of detention and delay. But if the capture was effected on frivolous and foolish grounds, the officer responsible for it will be condemned in costs and damages.

In other words, Mr. President, there is no liability to the right of search upon the part of any American merchantman who does not carry contraband of war, and there is no contraband of war under the treaty between the United States and Spain except only arms and munitions of war, and the arms and munitions of war that are contraband under that treaty before the merchantman shall be subjected to liability to the right of search shall be shown to be destined to the insurgents. When there is this right of search, if there be no contraband on board there is not anything disagreeable about it. It is the delay of only a few minutes. International law says the officer boarding the American merchantman will have to be considerate and courteous, and I think he would be.

Mr. ELKINS. May I interrupt the Senator from Ohio?

Mr. FORAKER. With pleasure.

Mr. ELKINS. How long do you think you could avert war if you allowed the Spanish Government to overhaul one of our merchant ships and have her examined, and certainly if they made a mistake? With all the war feeling that is in the Senate and out of the Senate, I tell the Senator he invites us to this very result of war.

Mr. FORAKER. Certainly not.

Mr. ELKINS. It follows logically, when we recognize belligerency, that Spain has a right to search our ships, and that means war, and that is the way to bring on war, too.

Mr. FORAKER. If the record were to show that there are 100,000 armed men in Cuba constituting the insurgent army and a civil government as firmly established as was the civil government of the Southern Confederacy in its capital at Richmond, the Senator would yet say, "We will not recognize belligerency, because the right of search will be conferred, and that means war."

Mr. ELKINS. But, if the Senator will allow me, there is no proof before the Senate proving it in the way you say, by information from the State Department, that there is any hundred thousand men firmly established and intrenched as was the Southern Confederacy. A comparison between Cuba and the Southern Confederacy is a travesty.

Mr. FORAKER. I have not said there are 100,000 men in the Cuban army—I was illustrating—but there are 40,000 men in that army. The Senator is bound to accept without question the official statement of officers of this Government. I have read to him here in open Senate in the course of these remarks the official statements of the Secretary of State made more than a year ago, and I have read to him an extract from an official statement that has been confirmed over and over again, as he can learn by a recurrence to the files of the State Department.

Mr. CHANDLER. Mr. President, will the Senator from Ohio allow me a moment?



Mr. FORAKER. Certainly.

Mr. CHANDLER. I should like to inquire of the Senator from West Virginia where he obtained the facts upon which he voted a year ago, upon the yeas and nays, for a resolution in exactly the same terms as the resolution now before the Senate?

Mr. ELKINS. I had some assurances that I found out were not true when I investigated the facts. They were newspaper reports, I will tell the Senator from New Hampshire; they were not facts which were brought into the Senate. Now, what do we appeal for and beg for? If the Senator from Ohio will allow me, I will state that the Senator from Massachusetts [Mr. LOBBE] got up here on behalf of the Committee on Foreign Relations and begged that the resolution be referred to the Committee on Foreign Relations, that we might have a report. Now, report the facts, if you have got them. A Cuban officer belonging to the insurgents says that the facts are not the same that they were a year ago; that there have been great changes.

Mr. CHANDLER. Then the Senator has changed his mind since a year ago?

Mr. ELKINS. I have not said I did; not at all. And, Mr. President, allow me to say this is the hardest way I ever heard to prove a war. We know that there is a war going on between Turkey and Greece.

Mr. FORAKER. How do you know?

Mr. CHANDLER. How do you know it?

Mr. ELKINS. It is all over the world. But here you twist the President's message for relief. One Senator argues it in one way. Another Senator says, "I have been admitted into the sanctum sanctorum of the State Department, and I have got it; you must take it from me; and if you do not want to take it from me, you must leave it alone." Where are the facts?

Mr. FORAKER. I hope the Senator from West Virginia will not interrupt me further with a mere repetition of questions that I have answered two or three times already.

The PRESIDING OFFICER. The Senator from Ohio declines to yield further. The Chair will suggest to Senators that under the rule they can only interrupt a Senator on the floor by asking permission through the Chair. The rule will be observed in the future.

Mr. FORAKER. Now, referring to the statement made by the Senator from Massachusetts [Mr. HOAR] yesterday, that the whole result of a recognition of belligerency was to confer upon Spain the right of search and release her from liability to make reparation, that and nothing more, to quote his exact language, I desire to call attention to another fact. What, Mr. President, is the attitude of this Government toward the insurgent Cubans now? It is one of absolute refusal to give them any recognition whatever. We as a Government know only one people, one Government, one authority on the Island of Cuba. That being the case, when a Cuban comes into this country, I would say to the Senator from Massachusetts, if he comes to act with respect to insurgency in Cuba, he comes here subject to the municipal laws of the United States. The policing of our seacoast that was referred to by Senators in the debate yesterday was in pursuance of and in recognition of that fact and in accordance with the proclamation of the President of the United States.

I desire to call attention in this connection to the proclamation

issued by Mr. Cleveland, as President, June 12, 1895, and to read a part of it. He said:

Whereas the Island of Cuba is now the seat of serious civil disturbances accompanied by armed resistance to the authority of the established Government of Spain, a power with which the United States are and desire to remain on terms of peace and amity; and

Whereas the laws of the United States prohibit their citizens, as well as all others being within and subject to their jurisdiction—

“All others” are the Cubans—

from taking part in such disturbances adversely to such established Government—

That is, our municipal laws prohibit Cubans from coming here and being kept from taking part adversely to the authority of Spain—

by accepting or exercising commissions for warlike service against it, by enlistment or procuring others to enlist for such service, by fitting out or arming or procuring to be fitted out and armed ships of war for such service, by augmenting the force of any ship of war engaged in such service and arriving in a port of the United States, and by setting on foot or providing or preparing the means for military enterprises to be carried on from the United States against the territory of such Government—

The Government of Spain—

Now, therefore, in recognition of the laws aforesaid and in discharge of the obligations of the United States toward a friendly power, and as a measure of precaution, and to the end that citizens of the United States and all others within their jurisdiction may be deterred from subjecting themselves to legal forfeitures and penalties, I, Grover Cleveland—

Do command that you do not do these things so prohibited—not taking the time to read the proclamation through to the end.

Now, the laws to which he refers, in pursuance of which he makes the proclamation, are entitled our neutrality laws, and they will be found at section 5281 of our Revised Statutes et sequitur. If you will recur to those sections and read them, you will find that the prohibitions are throughout against any action being taken by anybody in this country that is in the nature of hostile action against the Government of Spain in the Island of Cuba.

I answer again the inquiry made by the Senator from Massachusetts yesterday. You will remember what it was. He appealed to the Senator from Illinois to know what earthly benefit could result to the insurgents of Cuba from a recognition of their belligerency. I will tell the Senator from Massachusetts. The first result will be the substitution of international for municipal law to govern all who are interested in Cuba while they are here in the territory and in the jurisdiction of the United States.

Mr. WHITE. Mr. President—

Mr. FORAKER. I will tell it to you in a plainer way, if you will bear with me a minute. The insurgent in Cuba to-day, in the absence of the recognition proposed by this joint resolution, is but a traitor on land and a pirate on sea. He is shot like a dog when captured on shore, instead of being treated as a prisoner of war. If they had a battle ship, and he were on her and captured, he would be hanged at the yardarm as a pirate. And here in our country he is known only as a violator of our municipal law, and denied all recognition under the law of nations. Recognition will change all this. Let me particularize further.

Every such case as this is to be determined by its particular facts. There are to-day hundreds of American youths in the insurgent army. One of them, captured with a gun in his hand, taken in battle, is, like the Cuban insurgent, but a traitor to be shot in his tracks. When this Government refuses to recognize belliger-



ency, great and mighty and powerful as it is, it is absolutely without the power to protest against it; but when we shall have recognized belligerency, we have invested this Government with power to say that a man fighting for human liberty, for national independence, taken in the line of duty, with arms in his hands, gallant and heroic, shall be treated as a soldier engaged in legitimate war, and shall be accorded all the rights and privileges that belong to prisoners of war captured in battle.

So, while it is true that Spain gets the right of search, and gets release from further obligation to us, yet it is also true that this act puts the Cuban cause on a higher plane; the Cuban Republic at once takes a place among the nations of the earth; the soldier of that republic is henceforth engaged in legitimate war; taken in battle, he is entitled to be treated as a prisoner of war.

Furthermore, comes this result to us as a people: It puts us in a position of neutrality. We are not in a position of neutrality now. Every Cuban who comes into this country comes here subject to the municipal regulations to which I have referred. He comes under the surveillance of this Government until, as in many cases that have occurred, he is arrested and brought to trial; but no Spaniard is under any such surveillance, because our municipal code only prohibits those things and makes them unlawful which are done in hostility to a recognized power with which we are on friendly relations. Therefore it is that there is an important consideration here to which I wish to call attention. We are not a neutral power now as between these belligerents, but the very moment we recognize belligerency we become absolutely neutral according to all international law.

What does becoming neutral mean? It means that we have recognized the Cuban Republic as a friendly power, that we are at peace with that power, and that we can prohibit, as in violation of our municipal law, schemes set on foot in the United States in hostility to Cuba, as we now can only schemes set on foot in the United States in hostility to Spain.

Another thing—I might stand here and dwell upon this almost without limit—in all this matter there is something of higher concern to me, something that appeals to my conscience more than anything else that has been adverted to in this debate. Do you not think it time for the United States to cease to police her country and enforce her municipal regulations in the interest of Spain? Is it not time for us to take a position of absolute neutrality? What do we do by this? We do not make war on Spain; we simply say we will have nothing more to do with your war; we will put the contest on the high plane of legitimate warfare, and there leave you to fight it out.

What is the consequence to us? The consequence to us, Mr. President, is that we at once cease a responsibility for that which has shocked and horrified all Christendom. The United States has not any right in a moral point of view to stand longer a quasi copartner with Spain in the conduct of this brutal and atrocious war. The time has come to put an end to it. It is another "covenant with sin and league with hell," and, for my part, by no word or speech or act or vote of mine shall the unholy alliance longer continue than until this resolution comes to be voted upon by the Senate. [Applause in the galleries.]

The VICE-PRESIDENT. Order must be preserved in the galleries.

## APPENDIX.

DEPARTMENT OF STATE, *Washington, April 4, 1896.*

SIR: It might well be deemed a dereliction of duty to the Government of the United States, as well as a censurable want of candor to that of Spain, if I were longer to defer official expression as well of the anxiety with which the President regards the existing situation in Cuba as of his earnest desire for the prompt and permanent pacification of that island. Any plan giving reasonable assurance of that result and not inconsistent with the just rights and reasonable demands of all concerned would be earnestly promoted by him by all means which the Constitution and laws of this country place at his disposal.

It is now some nine or ten months since the nature and prospects of the insurrection were first discussed between us. In explanation of its rapid and, up to that time, quite unopposed growth and progress, you called attention to the rainy season which from May or June until November renders regular military operations impracticable. Spain was pouring such numbers of troops into Cuba that your theory and opinion that, when they could be used in an active campaign, the insurrection would be almost instantly suppressed, seemed reasonable and probable. In this particular you believed, and sincerely believed, that the present insurrection would offer a most marked contrast to that which began in 1868, and which, being feebly encountered with comparatively small forces, prolonged its life for upward of ten years.

It is impossible to deny that the expectations thus entertained by you in the summer and fall of 1895, and shared not merely by all Spaniards but by most disinterested observers as well, have been completely disappointed. The insurgents seem to-day to command a larger part of the island than ever before. Their men under arms, estimated a year ago at from ten to twenty thousand, are now conceded to be at least two or three times as many. Meanwhile, their discipline has been improved, and their supply of modern weapons and equipment has been greatly enlarged, while the mere fact that they have held out to this time has given them confidence in their own eyes and prestige with the world at large. In short, it can hardly be questioned that the insurrection, instead of being quelled, is to-day more formidable than ever, and enters upon the second year of its existence with decidedly improved prospects of successful results.

Whether a condition of things entitling the insurgents to recognition as belligerents has yet been brought about may, for the purposes of the present communication, be regarded as immaterial. If it has not been, it is because they are still without an established and organized civil government, having an ascertained situs, presiding over a defined territory, controlling the armed forces in the field, and not only fulfilling the functions of a regular government within its own frontiers, but capable internationally of exercising those powers and discharging those obligations which necessarily devolve upon every member of the family of nations. It is immaterial for present purposes that such is the present political status of the insurgents, because their defiance of the authority of Spain remains none the less pronounced and successful, and their displacement of that authority throughout a very large portion of the island is none the less obvious and real.

When, in 1877, the president of the so-called Cuban Republic was captured, its legislative chamber surprised in the mountains and dispersed, and its presiding officer and other principal functionaries killed, it was asserted in some quarters that the insurrection had received its deathblow and might well be deemed to be extinct. The leading organ of the insurrectionists, however, made this response:

"The organization of the liberating army is such that a brigade, a regiment, a battalion, a company, or a party of twenty-five men can operate independently against the enemy in any department without requiring any instructions save those of their immediate military officers, because their purpose is but one, and that is known by heart as well by the general as the soldier, by the negro as well as the white man or the Chinese, viz., to make war on the enemy at all times, in all places, and by all means, with the gun, the machete, and the firebrand. In order to do this, which is the duty of every Cuban soldier, the direction of a government or a legislative chamber is not needed; the order of a subaltern officer, serving under the general-in-chief, is sufficient. Thus it is that the government and chamber have in reality been a superfluous luxury for the revolution."

The situation thus vividly described in 1877 is reproduced to-day. Even if it be granted that a condition of insurgency prevails and nothing more, it is on so large a scale and diffused over so extensive a region, and is so favored by the physical features and the climate of the country, that the authority of Spain is subverted and the functions of its Government are in abeyance or practically suspended throughout a great part of the island. Spain still holds the seaports and most, if not all, of the large towns in the interior.



Nevertheless, a vast area of the territory of the island is in effect under the control of roving bands of insurgents, which, if driven from one place to-day by an exhibition of superior force, abandon it only to return to-morrow when that force has moved on for their dislodgment in other quarters.

The consequences of this state of things can not be disguised. Outside of the towns still under Spanish rule, anarchy, lawlessness, and terrorism are rampant. The insurgents realize that the wholesale destruction of crops, factories, and machinery advances their cause in two ways. It cripples the resources of Spain on the one hand. On the other, it drives into their ranks the laborers who are thus thrown out of employment. The result is a systematic war upon the industries of the island and upon all the means by which they are carried on, and whereas the normal annual product of the island is valued at something like eighty or a hundred millions, its value for the present year is estimated by competent authority as not exceeding twenty millions.

Bad as is this showing for the present year, it must be even worse for the next year and for every succeeding year during which the rebellion continues to live. Some planters have made their crops this year who will not be allowed to make them again. Some have worked their fields and operated their mills this year in the face of a certain loss who have neither the heart nor the means to do so again under the present even more depressing conditions. Not only is it certain that no fresh money is being invested on the island, but it is no secret that capital is fast withdrawing from it, frightened away by the utter hopelessness of the outlook. Why should it not be? What can a prudent man foresee as the outcome of existing conditions except the complete devastation of the island, the entire annihilation of its industries, and the absolute impoverishment of such of its inhabitants as are unwise or unfortunate enough not to seasonably escape from it?

The last preceding insurrection lasted for ten years and then was not subdued, but only succumbed to the influence of certain promised reforms. Where is found the promise that the present rebellion will have a shorter lease of life, unless the end is sooner reached through the exhaustion of Spain herself? Taught by experience, Spain wisely undertook to make its struggle with the present insurrection short, sharp, and decisive, to stamp it out in its very beginnings by concentrating upon it large and well-organized armies, armies infinitely superior in numbers, in discipline, and in equipment to any the insurgents could oppose to them.

Those armies were put under the command of its ablest general, as well as its most renowned statesman—of one whose very name was an assurance to the insurgents both of the skillful generalship with which they would be fought and of the reasonable and liberal temper in which just demands for redress of grievances would be received. Yet the efforts of Campos seem to have utterly failed, and his successor, a man who, rightfully or wrongfully, seems to have intensified all the acerbities of the struggle, is now being reinforced with additional troops. It may well be feared, therefore, that if the present is to be of shorter duration than the last insurrection, it will be because the end is to come sooner or later through the inability of Spain to prolong the conflict, and through her abandonment of the island to the heterogeneous combination of elements and of races now in arms against her.

Such a conclusion of the struggle can not be viewed even by the most devoted friend of Cuba and the most enthusiastic advocate of popular government except with the gravest apprehension. There are only too strong reasons to fear that, once Spain were withdrawn from the island, the sole bond of union between the different factions of the insurgents would disappear; that a war of races would be precipitated, all the more sanguinary for the discipline and experience acquired during the insurrection, and that, even if there were to be temporary peace, it could only be through the establishment of a white and a black republic, which, even if agreeing at the outset upon a division of the island between them, would be enemies from the start, and would never rest until the one had been completely vanquished and subdued by the other.

The situation thus described is of great interest to the people of the United States. They are interested in any struggle anywhere for freer political institutions, but necessarily and in special measure in a struggle that is raging almost in sight of our shores. They are interested, as a civilized and Christian nation, in the speedy termination of a civil strife characterized by exceptional bitterness and exceptional excesses on the part of both combatants. They are interested in the noninterruption of extensive trade relations which have been and should continue to be of great advantage to both countries. They are interested in the prevention of that wholesale destruction of property on the island which, making no discrimination between enemies and neutrals, is utterly destroying American investments that should be of immense value, and is utterly impoverishing great numbers of American citizens.

On all these grounds and in all these ways the interest of the United States

in the existing situation in Cuba yields in extent only to that of Spain herself, and has led many good and honest persons to insist that intervention to terminate the conflict is the immediate and imperative duty of the United States. It is not proposed now to consider whether existing conditions would justify such intervention at the present time, or how much longer those conditions should be endured before such intervention would be justified. That the United States can not contemplate with complacency another ten years of Cuban insurrection, with all its injurious and distressing incidents, may certainly be taken for granted.

The object of the present communication, however, is not to discuss intervention, nor to propose intervention, nor to pave the way for intervention. The purpose is exactly the reverse—to suggest whether a solution of present troubles can not be found which will prevent all thought of intervention by rendering it unnecessary. What the United States desires to do, if the way can be pointed out, is to cooperate with Spain in the immediate pacification of the island on such a plan as, leaving Spain her rights of sovereignty, shall yet secure to the people of the island all such rights and powers of local self-government as they can reasonably ask. To that end the United States offers and will use her good offices at such time and in such manner as may be deemed most advisable. Its mediation, it is believed, should not be rejected in any quarter, since none could misconceive or mistrust its purpose.

Spain could not, because our respect for her sovereignty and our determination to do nothing to impair it have been maintained for many years at great cost and in spite of many temptations. The insurgents could not, because anything assented to by this Government which did not satisfy the reasonable demands and aspirations of Cuba would arouse the indignation of our whole people. It only remains to suggest that, if anything can be done in the direction indicated, it should be done at once and on the initiative of Spain.

The more the contest is prolonged, the more bitter and more irreconcilable is the antagonism created, while there is danger that concessions may be so delayed as to be chargeable to weakness and fear of the issue of the contest, and thus be infinitely less acceptable and persuasive than if made while the result still hangs in the balance, and they could be properly credited in some degree at least to a sense of right and justice. Thus far Spain has faced the insurrection sword in hand, and has made no sign to show that surrender and submission would be followed by anything but a return to the old order of things. Would it not be wise to modify that policy and to accompany the application of military force with an authentic declaration of the organic changes that are meditated in the administration of the island with a view to remove all just grounds of complaint?

It is for Spain to consider and determine what those changes would be. But should they be such that the United States could urge their adoption, as substantially removing well-founded grievances, its influence would be exerted for their acceptance, and it can hardly be doubted, would be most potential for the termination of hostilities and the restoration of peace and order to the island. One result of the course of proceeding outlined, if no other, would be sure to follow, namely, that the rebellion would lose largely, if not altogether, the moral countenance and support it now enjoys from the people of the United States.

In closing this communication it is hardly necessary to repeat that it is prompted by the friendliest feelings toward Spain and the Spanish people. To attribute to the United States any hostile or hidden purposes would be a grave and most lamentable error. The United States has no designs upon Cuba and no designs against the sovereignty of Spain. Neither is it actuated by any spirit of meddlesomeness nor by any desire to force its will upon another nation. Its geographical proximity and all the considerations above detailed compel it to be interested in the solution of the Cuban problem whether it will or no. Its only anxiety is that that solution should be speedy, and, by being founded on truth and justice, should also be permanent.

To aid in that solution, it offers the suggestions herein contained. They will be totally misapprehended unless the United States be credited with entertaining no other purpose toward Spain than that of lending its assistance to such termination of a fratricidal contest as will leave her honor and dignity unimpaired at the same time that it promotes and conserves the true interests of all parties concerned.

I avail myself of this opportunity to renew to you, Mr. Minister, the assurances of my highest consideration.

RICHARD OLNEY.

Señor DON ENRIQUE DUPUY DE LÔME, etc.

Mr. THURSTON. Mr. President, I will take the floor for the purpose of submitting some remarks on the pending resolution, but I do not care to go on to-night.



Mr. CULLOM. If the Senator will allow me, I move that the Senate proceed to the consideration of executive business.

Mr. HOAR. If the Senator from Nebraska does not care to go on to-night, I should like, if he will allow me, to ask the Senator from Illinois to withdraw his motion for an executive session and to renew it after I get through.

Mr. CULLOM. I will withdraw the motion with that understanding.

Mr. HOAR. Mr. President, I so far sympathize with the gentlemen who desire to conclude this discussion——

Mr. PETTUS. Mr. President——

The VICE-PRESIDENT. The Senator from Massachusetts has the floor.

Mr. PETTUS. I desire to make a point of order, Mr. President.

The VICE-PRESIDENT. The Senator from Alabama will state his point of order.

Mr. PETTUS. I do not want to interrupt the Senator, but I do not think he ought to speak until there is order in the Senate.

The VICE-PRESIDENT. The point of order is well taken. The Senate will please come to order. [A pause.] The Senator from Massachusetts will now proceed.

Mr. HOAR. Mr. President, I so far sympathize with those persons who desire to bring this discussion to a conclusion that I desire to take a few minutes to-night, instead of consuming another day, in pointing out the precise distinction between the Senator from Ohio and myself, so far as our opinion upon this matter is concerned. I think the Senate should have authoritative facts, and should set them forth in a finding like a judicial decree on which it should base action.

I think my honorable friend from Ohio does not altogether seem to dissent from that proposition, although he desires us to act, as I understand him, upon the information given to him contained in two papers, one of which the Senate is not permitted to read through. He gives us a letter from the Secretary of State and an extract only from the reply; and we are asked to vote on this great question without knowing or being able to judge for ourselves whether the sentences which the honorable Senator withholds from his associates here modify, control, or contradict anything which is said in the garbled paper. I do not use the word "garbled" as implying impropriety, but we only know what is contained in the portion of the paper which he has read to the Senate.

Mr. FORAKER. I shall append the paper to my remarks.

Mr. HOAR. The Senator says he will put in the paper on which he founds his case the whole of the letter to the Spanish minister, but he withholds part of the answer and the last sentences of a report from somebody on the ground that if he were to give that report in full, it would disclose to us the author.

Mr. FORAKER. No; on the ground that I am limited by the injunction placed upon me when I received it.

Mr. HOAR. Not to disclose to us its author?

Mr. FORAKER. That is one of the reasons, and only one. I did not give that reason, and I would not give that reason.

Mr. HOAR. I thought the Senator did. I do not mean to say that he himself would prefer not to disclose the author. What I stated was that he, not being at liberty to disclose the author, will not disclose to us the whole paper.

Mr. FORAKER. That is all right.

Mr. HOAR. Now, I say that is not the way in which great transactions in our foreign affairs should be conducted. But, Mr. President, to hasten to the principal proposition of the honorable Senator, he thinks we had better declare belligerency and stop.

Mr. FORAKER. No; I did not say that. I said I would rather have intervention, but I stopped with belligerency because that was proposed.

Mr. HOAR. The Senator says he would rather have intervention, but he stops at belligerency because that is all that is proposed either by him or by anybody else. I say the proper thing to do is to propose mediation in favor of independence.

Mr. FORAKER. Very well, then; propose it.

Mr. HOAR. I am going to do so before I get through, or somebody before we get through will propose mediation in favor of independence, and, if that is rejected, then to have the facts reported to the Senate and take the action which the facts require.

The Senator says he does not believe in calling that power into exercise, and he proposes to stop with what I think is this little mouse of a resolution following a great brass band of proclamation, because, in the first place, he says Spain has once declined. Well, that was more than a year ago.

Mr. FORAKER. It was in June.

Mr. HOAR. The proffer was made more than a year ago; and, in the next place, what Spain declined was a proposal that it strikes me every self-respecting government on earth would decline, to wit, that while she continued her authority over Cuba the United States should dictate or advise and suggest what laws she should make for a part of her Kingdom.

I do not agree with my honorable and most able friend from Ohio in thinking that the refusal to permit us to tell Spain what kind of laws she shall make involves a refusal to accept our mediation in regard to the matter of independence. But if I heard correctly—I have not had a chance to examine it carefully—the paper that the Senator read, the Spanish Government intimated that there might come a condition of things later when she might accept.

Mr. FORAKER. No; that was twenty years ago.

Mr. HOAR. That was twenty years ago. Very well. When we proposed to mediate for independence twenty years ago, the Spanish Government replied that the condition of things then did not make her willing to accept it—it seems she put down that rebellion—but that there might come a condition of things later when she would not consider such a proposal one to be rejected.

So we have got a declaration from Spain herself that there may be circumstances under which she would not consider such a proposition unfriendly, and under which she might accede to it; and if the picture drawn by the honorable Senator from Ohio be true, I should think that the gentlemen who agree with him might think that that golden moment had now come. So much for that.

Mr. FORAKER. If the Senator will allow me, I wish to suggest that the recognition of belligerency will not interfere with friendly mediation. We do not undertake by the recognition of belligerency to stop the war or to take part with either side, but simply to take a neutral position from which we can all the better interpose our friendly offices.



Mr. HOAR. I do not think we can do all of that, but I think what the Senator says is quite true, that it will not interfere.

Mr. FORAKER. I will join with you, if this be adopted, in such an effort.

Mr. DANIEL. Will the honorable Senator from Massachusetts permit me to ask him a question? I do not wish to interrupt or break the thread of his discourse.

Mr. HOAR. I will yield.

Mr. DANIEL. I observed on yesterday when the Senator was speaking—and I will quote his words from the RECORD as I find them—

Mr. HOAR. Does it relate to what I am saying now?

Mr. DANIEL. It is apropos of what the Senator is now discussing. The Senator said:

I think the President of the United States should be asked by Congress to use his good offices with Spain to secure peace and independence in that island, and that is just what the Republican platform said.

Then the Senator goes on to suggest that, having offered our friendly offices, finally, if these mediatory steps fail, we would say to Spain, "If you do not stop that war, we will stop it ourselves." Are not those declarations of the Senator as to securing peace and his intimation that the time might come when he would say to Spain, "Stop that war," predicated upon the recognition in his own mind that there is war now in Cuba with Spain?

Mr. HOAR. Very well, suppose there is.

Mr. DANIEL. Well, supposing there is, is it not proper for us, in the first place, to recognize the condition which will be the basis of our conduct in dealing with it?

Mr. HOAR. Well, Mr. President, when we get the facts in an authoritative form, so that we can settle and affirm them, that question will become a practical one. It does not seem to me to affect the particular argument I am now making.

Mr. DANIEL. Would not the natural and orderly procedure be first to proclaim and recognize the condition of things as introductory to any method which we might see proper afterwards to employ to deal with it?

Mr. HOAR. Mr. President, I will come to that in a moment when I deal with what I understand recognition of belligerency to mean. I do not understand that by the law of nations every condition of belligerency warrants interference or recognition. Indeed, I understood the honorable Senator from Ohio to expressly affirm that belligerency exists in fact when hostilities exist too strong for the constable and where military forces are used on either side. The question for us whether a condition of things exists which, under the law of nations, makes it our duty to ourselves, having due regard to our own interests, to affirm the condition of belligerency, and if, there being a condition of belligerency, we make the affirmation—and I desire the attention of my friend from Ohio—if, there being a condition of belligerency, we affirm and recognize and declare it, not because of our own interests, but from sympathy for or desire to aid one of the parties, we are then guilty of an unfriendly and hostile act to the other. This is the law.

Mr. FORAKER. I argued, upon that very proposition, that it is a question for us to decide whether or not we will recognize belligerency, governed by our own interests.

Mr. HOAR. I cite the authority of the eminent jurist from Ohio to that proposition and in answer to the inquiry of the Senator from Virginia. But before I come to that—

Mr. FORAKER. If the Senator will allow me, I say we are to decide that from the result to the Cubans and the counter result to us. That is a beneficial and a legitimate consideration.

Mr. HOAR. Certainly. I was about, before coming to that, which was all I wish to detain the Senate about, to discuss and to point out one very instructive fact in the letter of Mr. Secretary Olney which was not read, and which Senators will find there, and which may perhaps not excuse, not perhaps even palliate, but may account for some of the transactions which some of the Senators on the otherside have dwelt upon with so much eloquence and pathos. He says this war is conducted by the insurgents not by meeting their antagonists in pitched battles, but by applying the torch to the houses of peaceful citizens, destroying their industries, burning their plantations, and starving out, or attempting to starve out, the Spanish troops by destroying the entire resources of that island.

That is what the Cubans are doing, according to the information which the honorable Senator from Ohio has furnished to the Senate. Now, if that be true, and the American citizens who are caught by the Spanish armies are doing that as their method of warfare, is it or not a violation of the laws of war and the laws of humanity to punish them with death for that offense? Who knows? Who answers? I should like a report from the Committee on Foreign Relations on that particular proposition, if it shall become material.

Senators talk about this recognition of belligerency stopping these things. I shall say a word about that presently. But if we can act upon the authority which the Senator from Ohio says, we ought to act upon the Spanish Government. I am not affirming this; I do not know; but he knows, and he tells us a good deal of what he knows, and a good deal he does not tell us because it is in strict confidence.

Mr. FORAKER. I shall not keep it from the Senator.

Mr. HOAR. I do not know what is in that paper, but this one thing the Senator tells us, that the Cubans have undertaken to throw off what used to be the lawful authority of Spain by saying they will turn that island into a wilderness and will burn over the heads of peaceful, neutral, unoffending citizens, women and children, the warehouses, the sugar houses, the factories, and the dwelling houses where they dwell, and will burn the plants on their plantations, not only the crop for the existing year—that is not in the paper, however, but that everybody has heard as a fact—but will destroy the entire plant, so that there shall be no new crop made for years to come. It is that war which Spain is engaged in putting down.

Now, I do not know whether, if an American citizen or a Cuban be caught red-handed after setting that fire, it be lawful to put him to death or no. I have heard that some people, of whom the Senator from Virginia and the Senator from Alabama have heard—I will not revive any unpleasant memories—caught Northern Union soldiers burning a military bridge, and they were put to death by a drumhead court-martial, without judge or jury, and not treated as prisoners of war. There is a good deal of evidence of that fact in the archives of this body. But that is merely in passing.



My honorable friend says that he admits that our interests are affected, and to some extent injuriously, if we recognize belligerency, which we are to do for our interest, he agrees, and not for the interest of the Cubans. All the eloquence, all the denunciation of Spain, all the sympathy are admitted away by the inexorable logic of the honorable Senator from Ohio when he admits that it is not for these things we have a right under the law of nations to recognize belligerency.

The whole argument of the honorable and eloquent Senator from Utah [Mr. CANNON], the whole argument of the honorable Senator from Illinois [Mr. MASON] yesterday, the whole argument of the honorable and very polite junior Senator from New Hampshire [Mr. GALLINGER], are all gone, because none of those things, says the representative of the Committee on Foreign Relations, warrants or affects our recognition of belligerency. It is a question of the interest of the United States. Now, we have that settled from the Committee on Foreign Relations.

I say that the interest of the United States is against permitting Spain to search our vessels at sea anywhere she catches them, instead of having the flag protect any ship or cargo or crew unless Spain catches her within the 3-mile limit. Now, that is my first proposition. How does the honorable Senator answer it? He says that the right of search is bound to be very politely exercised; that only one officer is allowed on board in the beginning, and if he suspects there is anything contraband of war, arms or gunpowder, muskets or cannon, or anything else, then he can take the ship into a Spanish port, and if the Spanish judge thinks he was polite, he is not punished.

If the Spanish judge, after a trial in a Spanish court, which may last years, finds there was no probable cause for the seizure, the vessel will be dismissed with costs; and if he finds there was probable cause for the seizure, for the suspicion, although in fact the ship did not have any such things aboard, or they were not intended for Cuba, then the vessel, after a three years' detention, is to be dismissed without costs. And the Senator thinks that is not much of an injury.

It is a very polite, agreeable, and pleasant kind of proceeding. It does not hurt the United States to have it happen, and to have it happen under the control of such an authority as he has described Spain, irritated by our recognition of belligerency.

Now, I wish to put against my honorable friend's opinion, which I rate a great deal more highly than he does himself, with his great modesty, the opinion of Gen. Ulysses S. Grant, who said that the recognition of belligerency and the right of search in Spain could not exist three months and have it possible to prevent a war with that nation.

Mr. FORAKER. Where did he say that?

Mr. HOAR. Either in his message to Congress or in one of his letters.

Mr. FORAKER. I have his messages here, and he never said any such thing officially. That is sure.

Mr. HOAR. I do not remember where he said it.

Mr. FORAKER. I know what he said.

Mr. HOAR. I know he said it.

Mr. FORAKER. I know where he said what he did say, and if the Senator will allow me, I will read it.

Mr. HOAR. He said a good many things.

Mr. FORAKER. He was a great general and a great President, but not the greatest international lawyer this country has produced.

Mr. HOAR. Perhaps not. I know there are international lawyers greater.

Mr. FORAKER. Here is what he does say:

It would give rise to countless vexatious questions, would release the parent government from responsibility for acts done by the insurgents—

Mr. HOAR. If the Senator wishes to read something else that General Grant said, I will yield.

Mr. FORAKER. I was about to read upon the point to which the Senator referred.

Mr. HOAR. He said what I have said on the point I referred to.

Mr. FORAKER. In no official paper. He may have said it to the Senator when the Senator was visiting the White House. If the Senator will allow me, I will read it.

Mr. HOAR. By all means. I should like to have it.

Mr. FORAKER. Speaking of the consequences of belligerency, General Grant said in his message:

Such recognition entails upon the country according the rights which flow from it difficult and complicated duties, and requires the exaction from the contending parties of the strict observance of their rights and obligations. It confers the right of search upon the high seas by vessels of both parties; it would subject the carrying of arms and munitions of war, which now may be transported freely and without interruption in the vessels of the United States, to detention and to possible seizure; it would give rise to countless vexatious questions, would release the parent Government from responsibility for acts done by the insurgents, and would invest Spain with the right to exercise the supervision recognized by our treaty of 1795 over our commerce on the high seas.

Upon that I have commented.

Mr. HOAR. Read on.

Mr. FORAKER. I will read as much as the Senator likes, but I do not like to interrupt him unduly. General Grant goes on to say that intervention will be necessary unless they shortly desist.

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